

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE**

LEILANI BRADSHAW,)	
)	
Plaintiff,)	
)	
v.)	No. _____
)	
CIGNA HEALTH & LIFE INSURANCE,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Defendant Life Insurance Company of North America (“LINA”), incorrectly designated above as “Cigna Health & Life Insurance,” files this Notice of Removal to this Court an action brought against it and currently pending in the Shelby County General Sessions Court, bearing Docket No. 1763137, and with respect thereto, would show this Court as follows:

I.

The above-styled cause was commenced in the Shelby County General Sessions Court, State of Tennessee, Case No. 1763137, by virtue of a Civil Warrant filed by Plaintiff Leilani Bradshaw on September 14, 2015.

LINA and/or the State of Tennessee Department of Commerce and Insurance received a copy of Plaintiff’s Civil Warrant on or about September 18, 2015. Pursuant to 28 U.S.C. § 1446(a), a copy of the aforementioned Civil Warrant and the Court file, are attached and made a part of this Notice by reference.

II.

Upon information and belief, Plaintiff is a citizen of the State of Tennessee.

III.

The Civil Warrant alleges a claim for the alleged nonpayment of insurance benefits to Plaintiff. Despite the Civil Warrant's allegations to the contrary, the insurance policy is governed by the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, et seq. ("ERISA"). Affidavit of Lisa Mekkelsen ("Mekkelsen Aff."), ¶ 6 attached as **Exhibit A**; see also copy of the policy attached as **Exhibit B**. Accordingly, this action is one of a civil nature for damages claimed as a result of an alleged breach of an ERISA insurance contract. Based on the ERISA nature of the claims alleged by Plaintiff, this Court has original jurisdiction over Plaintiff's action against LINA under the provisions of 28 U.S.C. § 1331.

Specifically, this is an action for benefits arising under ERISA. 29 U.S.C. § 1132(e)(1) confers original jurisdiction upon the district courts of the United States over claims initiated by plan participants, beneficiaries, or fiduciaries to recover benefits due or to enforce rights under employee benefit plans governed by ERISA. The Civil Warrant asserts Plaintiff's rights to recover benefits under the terms of a plan. See Civil Warrant. It is clear that this action arises under federal law, and this Court has original jurisdiction.

Further, while federal preemption is ordinarily a defense and, as such, would not satisfy the well-pleaded complaint rule for removal purposes, causes of action filed in state court that are preempted by ERISA and come within the scope of Section 1132(a) are removable to federal court under 28 U.S.C. § 1441(a) as an action arising under federal law, even if the defense of ERISA preemption does not appear on the face of the complaint. *Metropolitan Life Ins. v. Taylor*, 481 U.S. 58, 107 S. Ct. 1542, 95 L. Ed.2d 55 (1987). To the extent the specific claims against LINA are separately articulated, those specific claims as to LINA also are removed. The requisite federal question exists, as provided in 28 U.S.C. § 1331.

IV.

The time period within which LINA is required to file this Notice of Removal pursuant to 28 U.S.C. § 1446 has not yet expired. LINA first received notice of the action no earlier than September 18, 2015.

V.

LINA files herewith a copy of all process, pleadings, and orders served upon all parties to this action.

VI.

Notice to the Shelby County General Sessions Court, which attaches a duplicate of this Notice of Removal to federal court, is being filed with the Clerk of the Shelby County General Sessions Court as required by 28 U.S.C. § 1446(d).

VIII.

Notice of the filing of this Notice of Removal will be sent to the Plaintiff, the only adverse party, as required by 28 U.S.C. § 1446(d).

IV.

The allegations of this Notice are true and correct and within the jurisdiction of the United States District Court for the Western District of Tennessee, and, as noted above, this cause of action is removable to the United States District Court for the Western District of Tennessee.

WHEREFORE, LINA files this Notice for the purpose of removing this action from the General Sessions Court of Shelby County to the United States District Court for the Western District of Tennessee.

Respectfully submitted,

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

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Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2015, a copy of the foregoing Notice of Removal was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

Leilani Bradshaw
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Apt. 101
Memphis, TN 38106

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

By: s/Cameron S. Hill